1952

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File No. Motor II/52(R) Pt-II

Legal Deptt.

13 BRANCH

P. 13(E)/1952

Subject:— Rules under the Motor Vehicles Act 1939

(for previous pps. pl. see pt. I)

File No. (Motor II/52-(R) Pt II

Gen. 194

35-B

Legal Department.

A revised draft notification is sent herewith.

2. In addition to amendments to rules 83, 83A and 88, a consequnetiial amendment to rule 85 is incorporated in the revised draft.

3. Power can be taken by inserting a new rule providing that except with the previous sanction of the State Government no state carriage shall be driven in any public place without a conductor. But the power to grant sanction will have to be exercised by the State Government impartially and arbitrarily, with the result that while exercising this power, Government will not be able to discriminate, between the State Transport ~~xxxxxxxxxxxx~~ Corporation and private operators. Such a rule will not achieve the object in view. It is true that there is no provision in the Act or in the rules requiring that every State Carraigae must necessarily have a conductor. It however appears from rule 84 that a State carriage may be runn without a conductor. Presumably, running of a State carriage without a conductor is permitted under executive orders, If so, the necessary permission may be granted to the Corporation whenever necessary to run buses without such conductors by means of executive orders. If so, the necessary permission may be granted to the Corporation whenever necessary to run buses withoutsuch conductors by means of executive instructions.

Id/- R.D. ~~J.R.D.~~ 30/6

Deputy
Additional Secretary to Government.

U.R. to H.D. No. 10884,

dated the 1st July 1952.

JPE.28/6/56.4c.

Legal Department.

The expression 'bigger than a goat or sheep in the Home Department draft at page 133 ante appears to be vague, since goats or sheep are not of uniform size. The Home Department may therefore fix some ascertainable standard either by height, weight or otherwise for such animals; as in the absence of such ascertainable standard the enforcement of the rule will not be feasible.

Id/- J.R.D.
7/7

Additional Deputy Secretary to Govt.

U.R. to H.D. No. 11834,
dated the 17th July 1952.

JPE.28/6/56.
4 copies.

Legal Department.

Section 63(1) of the Motor Vehicles Act, 1939, provides for the grant of a permit by a Regional Transport Authority for any region valid for any other region also, provided such permit has been counter-signed by the Regional Transport Authority of that other region. Sub-section (2) of that section empowers the Regional Transport Authority when counter-singing a permit to attach to the permit any conditions which it might have imposed if it had granted the permit. The power to impose a condition while granting a permit is provided in section 56 of the Act. Clause (b) of that section enumarates theconditions which a Regional Transport -- -- Authority may attach to the public carrier's permit. Sub-clauses (i) to (iii) of clause (b) of section 56 do not cover the present proposal. Sub-clause (iv) provides [illegible] for - other prescribed conditions. 'Prescribed conditions' maan conditions prescribed by Government by means of rules made in that behalf. No rule prescribing a condition to be -- attached to a public carrier's permit as envisaged in the in the proposed amendment has so far been made in the rules. That being so, unless such a condition is prescribed in the rules enabling an original Regional Transport Authrotiy to attach the proposed conditions while granting the permit, it would not be feasible for the counter-signing authority to attach a similar condition at the time of counter-singing. Power [illegible]

is, therefore, taken in sub-rule (1A) to be inserted in rule 57 to the Regional Transport Authority while garniting a permit to attach a condition to the effect that while exteding the effect of a permit to any other region, the Regional Transport Authority may attach to the permit a condition to the effect that the vehicle shall not be used beyond the region of such original Regional Transport Authority execept for a return journey and shall not be offered for hire outside that region.

H.D. is requested to verify whether the revised draft is suitable and carries out its intention.

Sd/- R.P. J.R.D.
16/7

Additional Deputy Secretary to Government.

U.R. to H.D. No. 11839,
dated the 17th July 1952.

JPE.28/6/56.
4 copies.

Legal Department.

A revised draft notification is sent herewith.

2. Home Department's draft of clause(5)(i) (b) and (c) of rule 20 is too wide. There are numerous items in Chapter V - some may be trivial - the infringement of any of which will make the licence subject to suspension or withdrawal . As no appeal is provided for, such power will be considered unreasonable and not coextensive with the nature of the fault. H . D . is therefore requested to specify the provisions of Chapter V, the breach of which should result in withdrawal or suspension of approval.

3. The articles which are necessary to be maintained should as far as possible be all specified in sub-clauses (g) and (i) of the proposed clause (ivA) of rule 20(7), as in statutory legislation, it is not feasible to use the word "etc." in particular, where a person is laible to loss of permit without appeal, at least the provisions should be precise.

Id/- R.P. J.R.D. 9/8

Additional Deputy Secretary to Government.

U.R. to H.D.No. 13192,

dated the 11th August 1952.

JPE.28/6/56.4c.

Legal Department.

A revised draft notification is sent herewith. It would not be legally feasible to prohibit painting of any sign or advertisement which is similar in appearance to a traffice sign on road as proposed in the Home Department draft as such a provision would be outside the scope of the Motor Vehicles Act, 1939.

Id/- ..

Additional Deputy Secretary to Government.

U.R. to H.D. No. 16987/B,
dated 14th October 1952.

JPE.28/6/56.
4 copies.

Legal Department.

As regards the first objection, as pointed out in Legal Department memo No.11839 dated the 17th July 1952 it would not be feasible for the contersigingning authority to attach the proposed condition while granting the permit, unless the original Regional Transport Authority is first empowered to attach the proposed condition. The draft therefore provides for enabling the original Regional Transport Authority to attach conditions.

2. To carry out the object specified in clause (ii) above, the addition of the words 'except for the purposes of such return journey' at the end of the draft as shown on page 26 ante will suffice. In this connection it is pointed out that the previous draft has been based on the existing rule 57(3), which like does not contain any provision to the above effect.

Id/- R.P.
~~J.R.~~ D.
30/10
Deputy
Additional Secretary to Government.

X U.R. to H.D.No. 18073/B,
dated the 31st October 1952.

JPE.28/6/56.
4 copies.

Legal Department.

The question for consideration is whether rule 44 of the Motor Vehicles Rules, 1940, as amended by G.N., H.D. No. 6167/6 dated the 16th August 1952 (copy at p. 54 ante) is inconsistent with section 2(33) of the Motor Vehicles Act, 1939 and requires any amendment.

2. TUnder the definition given in section 2(33) of the Act, the expression 'transport vehicle' means any tractor other than a tractor used solely for agricultural purposes. In other words, all tractors other than those used for agricultural purposes, are transport vehicles and as such they are required to be gegistered under section 22(1) and to carry certificate of fitness under section 38(1). Accordingly the fist proviso inserted in rule 44 by G.N., H.D. No. 6167/66 dated the 16th August 1952 lays down the general rule that the tractors capable of other use shall be regaistered and require certificate of fitness.

3 .Tractors solely used for agricultural purposes are not transport vehicles (vide section 2(33). They are, therefore, not required to carry certificate of fitness but are required to be registered under sectin 22(1). The second proviso inserted in rule 44 by G.N.H.D. dated 16th August 1952

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controls the fixrst proviso and makes this clear. Apparently, the S.T.O. in his letter at p. 65 has overlooked the effect of the second proviso.

4. Both the provsos are thus consistent with the Act and do not require any amendment.

Id/- J.R.D.
8/11

Additional Secretary to ~~Xx~~ Government.

U.R. to H.D. No. 18701/B,
dated the 10th November 1952.

JPE.28/6/56.
4 copies.

Legal Department.

A revised draft notification is sent herewith.

2. Clause II in H.D. draft at p. 40 ante- It is not necessary to add a proviso as proposed by the H.D. Under section 58(2) of the Motor Vehicles Act, 1939, a renewal of a permit has to be treated as if it were an application for a permit. As such the procedure laid down in rule 51 will have to be followed also in the case of a renewal of permit. The proviso is not, therefore, included in the revised draft.

3. Clause III in H.D. draft at p.40 ante- Under rule 4 of the Rules the power to grant authorisation to drive a public service vehicle does not vest in the Regional Transport Authroity but it vests in the licensing authority. Under section 44(5) of the Act, provision can be made in the Rules for the delegation of powers exercisable by the Regional Trnasport Authority. As the power under rule 4 of the Rules is not a power exercisable by the Regional Transport Authority a reference to rule 4 is not included in the revised draft.

Id/- J.R.D.
10/11

Additional Secretary to Government

U.R. to H.D., No. 18730/B,
dated the 11th November 1952.

JPE.28/6/56.4c.

Legal Department.

In place of the draft notification at pages 33 to 36 ante, a revised draft notification is sent herewith.

2. Chapter IV of the Motor Vehicles Act, 1939, covers four kinds of permits, i.e., (1) the stage carriage permits, (2) the contract carriage permits, (3) the private carrier's permit. and (4) the public carrier's permit. Except section 57(5) which covers only stage carriage and public carrier's permits the Chapter does not give a right to any person to be represented by an agent (cf. sec. 47, proviso, or section 60(1), proviso), The right to appear by any agent has been conferred by the rules in question, i.e., rules 48, 52 and 77. These rules can be amended by Government under section 68 so as to restrict the right to agents recognised by Government, except in cases falling under section 57(5). Similarly, the details of the qualifications required by the recognised agents can be settled by the Transport Authority concerned under its by laws which it is empowered to make under sub-rule (2) of rulex 48, except that in the absence of any authority under the Act, no fees can be prescribed for granting recognition to the agent. The revised draft has been prepared accordingly.

Id/- J.R.D.13/11

Additional Secretary to Government.

U.R. to H.D. No. 19083/B,

dated the 15th November 1952.

JPE.28/6/56.4c.

L.D.

A revised draft notification is sent herewith.

2. Rule 136 applies to public Service vehicles. Sub-rule (1) of that rule specifically provides that no public service vehicle shall be driven other than from the right hand side of the vehicle. The proposed rule uses the word 'vehicles' which is wide enough to include all vehicles including the public Service vehicles. This is obviously not intended. It is presumed the proposed amendment is relatable to motor cars only as defined in section 2(16) of the Act. The revised draft notification sent herewith provides accordingly.

Id/- ~~J.R.D.~~ B.P. 26/11

Additional Deputy Secretary to Govt.

U.R. to H.D., No. 19865/B,
dated the 27th November 1952.

JPE.28/6/56.4c.